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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Amended
13 Accusation/Petition to Revoke Probation
Against,

14 **RODNEY R. JARAMILLO**
15 **2070 Joan Drive**
16 **San Leandro, CA 94578**

17 **Registered Nurse License No. RN 549749**
18

Case No. 2004-165

**AMENDED ACCUSATION AND
PETITION TO REVOKE PROBATION**

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20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN, Interim Executive Officer (Complainant) brings this
23 Accusation and Petition to Revoke Probation solely in her official capacity as the Assistant
24 Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

25 2. On or about November 13, 1998, the Board of Registered Nursing issued License
26 Number RN 549749 to Rodney R. Jaramillo (Respondent). The Registered Nurse License was in
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1 effect at all times relevant to the charges brought herein and will expire on July 31, 2010, unless
2 renewed.

3 3. In a disciplinary action entitled "In the Matter of the Accusation Against Rodney R.
4 Jaramillo," Case No. 2004-165, attached as Exhibit A and incorporated herein by reference, the
5 Board of Registered Nursing issued a decision, effective August 13, 2004, adopting a Stipulated
6 Surrender of License and Order in which Respondent surrendered Registered Nurse License
7 Number RN 549749. A copy of that decision is attached as Exhibit B and is incorporated by
8 reference.

9 4. Respondent's first Petition for Reinstatement of his Registered Nurse license was
10 denied effective April 27, 2007.

11 5. On or about June 12, 2008, Respondent petitioned the Board to reinstate his
12 Registered Nursing License in OAH Case No. 2008050677. Effective August 22, 2008, his
13 license was reinstated. The reinstated license was immediately revoked, the revocation stayed,
14 the license was placed on probation for three (3) years. A copy of that decision is attached as
15 Exhibit B and is incorporated by reference.

16 JURISDICTION

17 6. This Amended Accusation and Petition to Revoke Probation is brought before the
18 Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the
19 following laws. All section references are to the Business and Professions Code unless otherwise
20 indicated

21 STATUTORY PROVISIONS

22 7. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,
23 that the Board may discipline any licensee, including a licensee holding a temporary or an
24 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
25 Nursing Practice Act.

26 8. Section 2761 of the Code states, in pertinent part, that the Board may take
27 disciplinary action against a certified or licensed nurse or deny an application for a certificate or
28 license for any of the following:

1 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

2 ...

3 (d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
4 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
5 Act] or regulations adopted pursuant to it.

6 ...

7 (f) Conviction of a felony or of any offense substantially related to the qualifications,
8 functions, and duties of a registered nurse, in which event the record of the conviction shall be
9 conclusive evidence thereof.

10 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or
11 revoke a license on the ground that the licensee has been convicted of a crime substantially
12 related to the qualifications, functions, or duties of the business or profession for which the
13 license was issued.

14 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
15 administrative law judge to direct a licentiate found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case.

18 REGULATION PROVISIONS

19 11. California Code of Regulations, Title 16, section 1444, states in relevant part, that
20 a conviction or act shall be considered to be substantially related to the qualifications, functions
21 or duties of a registered nurse if to a substantial degree it evidences the present or potential
22 unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or
23 welfare.

24 FACTUAL BACKGROUND

25 12. On or about January 6, 2004, Accusation No. 2004-165 was filed against Respondent
26 for multiple criminal convictions, for the falsification of his registered nurse license application
27 and for theft of patient records. (Exhibit A). Respondent stipulated to the surrender of his
28 Registered Nursing License. The Board’s decision was effective August 13, 2004. (Exhibit B)

13. On or about August 22, 2008, Respondent's Registered Nursing license was reinstated subject to terms and conditions of probation (set forth fully in Exhibit C) including but not limited to the following: obey all laws; comply with the Board's probation program; abstain from the consumption of alcohol, and submit to biological fluid tests and samples beginning on or about November 15, 2008.

14. On or about December 5, 2008, Respondent was arrested for suspected driving under the influence of alcohol in violation of California Vehicle Code section 23152. He admitted that he had consumed wine that day.

15. On or about January 7, 2009, in the matter entitled *People of the State of California vs. Rodney r. Jaramillo*, San Francisco Superior Court Case No. 2397165, Respondent was convicted by his plea of "nolo contendere" to the misdemeanor violation of California Vehicle Code section 23103 (reckless driving). Respondent was granted 18 months of Court probation subject to serving 1 day in jail, payment of fines in the amount of \$835.78, payment of restitution in the amount of \$100.00, and a security fee of \$20.00; enrollment in a 3 month First Offenders Program, ordered not to drive without a valid driver's license and not to drive with any measureable amount of alcohol in his blood.

FIRST CAUSE FOR DISCIPLINE

(Substantially Related Conviction)

16. Respondent's license is subject to disciplinary action, pursuant to section 490 of the Code, and Code sections 2761(a), 2761(d) and 2761(f), unprofessional conduct, for the violation of the California Code of Regulations, Title 16, section 1444, in that Respondent was convicted by his plea of "nolo contendere" in San Francisco Superior Court, Case No. 2397165, entitled *People of the State of California vs. Rodney R. Jaramillo*, for the misdemeanor violation of California Vehicle Code section 23103, reckless driving, as set forth in paragraph 15, above. Respondent's conviction is substantially related to the qualifications, functions or duties of a registered nurse and evidences, to a substantial degree, Respondent's present or potential unfitness to practice in a manner consistent with public health, safety, or welfare.

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PETITION TO REVOKE PROBATION

17. The allegations of paragraphs 1 through 16 of the Accusation are incorporated herein by reference and are realleged as if fully set forth. (Exhibit A)

18. On or about August 22, 2008, Respondent's Registered Nurse license was reinstated subject to terms and conditions of probation. (Exhibit C)

RELEVANT TERMS OF PROBATION

19. Pursuant to the Decision of the Board to reinstate Respondent's Registered Nursing license, the following relevant conditions of probation were imposed:

1. Obey All Laws - Petitioner shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

CRIMINAL COURT ORDERS: If petitioner is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. Comply with the Board's Probation Program - Petitioner shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the petitioner's compliance with the Board's Probation Program.

...

15. Abstain from Use of Psychotropic (Mood-Altering) Drugs - Petitioner shall completely abstain from the possession, injection or consumption by any route of all psychotropic

1 (mood-altering) drugs, including alcohol, except when the same are ordered by a health care
2 professional legally authorized to do so as part of documented medical treatment....

3 **16. Submit to Tests and Samples** - Petitioner, at his expense, shall participate in a
4 random, biological fluid testing or a drug screening program which the Board approves. The
5 length of time and frequency will be subject to approval by the Board. The petitioner is
6 responsible for keeping the Board informed of petitioner's current telephone number at all times.
7 Petitioner shall also ensure that messages may be left at the telephone number when she is not
8 available and ensure that reports are submitted directly by the testing agency to the Board as
9 directed. Any confirmed positive finding shall be reported immediately to the Board by the
10 program and the petitioner shall be considered in violation of probation.
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12 In addition, petitioner, at any time during the period of probation, shall fully cooperate with
13 the Board or any of its representatives, and shall, when requested, submit to such tests and
14 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
15 hypnotics, dangerous drugs, or other controlled substances.
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17 If petitioner has a positive drug screen for any substance not legally authorized and not
18 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
19 files a petition to revoke probation or an accusation, the Board may suspend petitioner from
20 practice pending the final decision on the petition to revoke probation or the accusation. This
21 period of suspension will not apply to the reduction of this probationary time period.
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23 If petitioner fails to participate in a random, biological fluid testing or drug screening
24 program with in the specified time frame, the petitioner shall immediately cease practice and shall
25 not resume practice until notified by the Board. After taking into account documented evidence of
26 mitigation, if the board files a petition to revoke probation or an accusation, the Board may
27 suspend petitioner from practice pending the final decision on the petition to revoke probation or
28

1 the accusation. This period of suspension will not apply to the reduction of this probationary time
2 period.

3 FIRST CAUSE TO REVOKE PROBATION

4 20. Grounds exist to revoke Respondent's probation heretofore entered and impose the
5 stayed order of revocation in that Respondent failed to comply with the terms and conditions of
6 his probation as follows:

7 21. Respondent failed to comply with Condition No. 1 of his probation that required him
8 to obey all federal, state and local laws in that on or about January 7, 2009, Respondent was
9 convicted by his plea of nolo contendere to the violation of California Vehicle Code section
10 23103 for reckless driving, a misdemeanor, in the matter entitled, entitled *People of the State of*
11 *California vs. Rodney R. Jaramillo*, San Francisco Superior Court Case No. 2397165.

12 SECOND CAUSE TO REVOKE PROBATION

13 22. Grounds exist to revoke Respondent's probation heretofore entered and impose the
14 stayed order of revocation in that Respondent failed to comply with the terms and conditions of
15 his probation as follows:

16 23. Respondent failed to comply with Condition No. 15 requiring him to completely
17 abstain from the consumption of alcohol, when he, by his own admission, consumed alcohol on
18 December 5, 2008.

19 THIRD CAUSE TO REVOKE PROBATION

20 24. Grounds exist to revoke Respondent's probation heretofore entered and impose the
21 stayed order of revocation in that Respondent failed to comply with the terms and conditions of
22 his probation as follows:

23 25. Respondent failed to comply with Condition of Probation No. 16 requiring him to
24 submit to register with Compass Vision by the required date of November 15, 2008, and did not
25 begin participating in random, biological fluid testing until January 20, 2009.

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1 FOURTH CAUSE TO REVOKE PROBATION

2 25. Grounds exist to revoke Respondent's probation heretofore entered and impose the
3 stayed order of revocation in that Respondent failed to comply with the terms and conditions of
4 his probation as follows:

5 26. Respondent failed to comply with Condition of Probation No. 16 requiring him to
6 participate in random, biological fluid testing or a drug screening program which the Board
7 approved when the Board sent him a form and instructions to enroll with FirstLab for drug
8 screening by November 25, 2009, and as of January 11, 2010 he had not complied. Further, in
9 mid-January 2010 Respondent left a voice mail message informing his probation monitor at the
10 Board that he would not be enrolling with FirstLab and that he chose to stay with another testing
11 company.

12 FIFTH CAUSE TO REVOKE PROBATION

13 27. Grounds exist to revoke Respondent's probation heretofore entered and impose the
14 stayed order of revocation in that Respondent failed to comply with the terms and conditions of
15 his probation as follows:

16 28. Respondent failed to comply with Condition of Probation No. 2 requiring him to fully
17 comply with the terms and conditions of his probation by failing to comply with the conditions
18 set forth above in paragraph 19.

19
20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking the probation that was granted by the Board of Registered Nursing in Case
24 No. 2004-165 and imposing the disciplinary order that was stayed thereby revoking Registered
25 Nurse License No. RN 549749 issued to Rodney R. Jaramillo;

26 2. Revoking Registered Nurse License No. RN 549749, issued to Rodney R. Jaramillo;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 3/8/10 for *Hance Bennis*
Louise R. Bailey, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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Exhibit C

Decision and Order: Petition for Reinstatement

Board of Registered Nursing, OAH Case No. 2008050677

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement of:

RODNEY JARAMILLO

Registered Nurse License No. 549749

Petitioner.

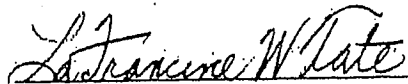
OAH No. 2008050677

DECISION

The attached Decision of the Board of Registered Nursing is hereby adopted by the Board as its Decision in the above-entitled matter.

This Decision shall become effective on August 22, 2008.

IT IS SO ORDERED this 24th day of July 2008.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of Petition for Reinstatement
of:

RODNEY JARAMILLO,

Petitioner.

OAH No. 2008050677

DECISION

This matter was heard by a quorum of the Board of Registered Nursing (Board) on June 12, 2008, in Burlingame, California. The Board members participating in the hearing and decision were LaFrancine Tate, Public Member, President; Susanne Phillips, MSN, RN, APRN-BC, FNP, Vice President; Andrea Dutton, Public Member; Elizabeth O. Dietz, Ed.D., RN, CS-NP; Nancy Beecham, RNC, BS; and Janice Glaab, Public Member. Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, presided.

Hannah H. Rose, Deputy Attorney General, represented the Department of Justice, State of California.

Petitioner Rodney Jaramillo was present and represented by Edgardo Gonzalez, Attorney at Law.

The matter was submitted on June 12, 2008.

FACTUAL FINDINGS

1. Rodney Jaramillo (petitioner) was issued RN License number 549749 on November 13, 1998. His license was revoked effective August 13, 2004, for conviction of theft when, while employed at California Pacific Medical Center, he stole medical records of three female patients and contacted at least one of them for social reasons. He was also convicted of battery on a household member and was convicted twice of driving while intoxicated in New Mexico. Petitioner was terminated from his employment at Pacific Medical Center for taking the records of the three patients.

Petitioner has petitioned the Board for reinstatement of his revoked license once before. That petition was denied on April 27, 2007.

2. Petitioner has an alcohol abuse problem. He attended Mission Council on Alcohol Abuse for the Spanish Speaking in 2002, and completed all the program requirements. He also completed his criminal probation successfully on January 22, 2006.

3. Petitioner is employed as an operating room surgical technician. Petitioner testified that his employer is interested in promoting him to direct patient care if his license is reinstated. Petitioner presented proof of continuing education contact hours for courses taken between 2003 and 2006.

4. Carolyn Phillips, a licensed Marriage, Family Therapist testified at the hearing. She began treating petitioner in January 2008. She finds him to be motivated and cooperative. He has gained insight into his actions and is learning to use successful communication techniques. Petitioner also presented a letter of support from a friend.

5. The Board finds that petitioner has demonstrated sufficient rehabilitation to allow reinstatement of his revoked license upon terms and conditions set forth below.

LEGAL CONCLUSIONS

1. Government Code section 11522 allows petitioner to petition for reinstatement of his license. Business and Professions Code section 2760.1 also allows petitioner to petition for reinstatement.

2. California Code of Regulations, title 16, section 1445, sets forth the criteria to be used in evaluating rehabilitation. Petitioner has demonstrated sufficient rehabilitation to warrant reinstatement of his license upon terms and conditions.

ORDER

The Petition of Rodney Jaramillo for reinstatement of his registered nursing license is hereby granted. That license shall be immediately revoked, the order of revocation is stayed and petitioner's license shall be placed on probation for a period of three years with the following terms and conditions:

- (1) OBEY ALL LAWS - Petitioner shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by petitioner to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, petitioner shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

CRIMINAL COURT ORDERS: If petitioner is under criminal court orders, including probation or parole, and the order is violated, this shall be

deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

- (2) COMPLY WITH THE BOARD'S PROBATION PROGRAM - Petitioner shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of petitioner's compliance with the Board's Probation Program. Petitioner shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, petitioner's license shall be fully restored.

- (3) REPORT IN PERSON - Petitioner, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.
- 4) RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE - Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Petitioner's probation is tolled, if and when he resides outside of California. Petitioner must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Petitioner shall provide a list of all states and territories where he has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Petitioner shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Petitioner shall inform the Board if he applies for or obtains a new nursing license during the term of probation.

- (5) SUBMIT WRITTEN REPORTS - Petitioner, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to petitioner's compliance with all the conditions of the Board's Probation Program. Petitioner shall immediately execute all release of information forms as may be required by the Board or its representatives.

Petitioner shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he has a registered nurse license.

- (6) FUNCTION AS A REGISTERED NURSE - Petitioner, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If petitioner has not complied with this condition during the probationary term, and petitioner has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of petitioner's probation period up to one year without further hearing in order to comply with this condition. During the one-year extension, all original conditions of probation shall apply.

- (7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS - Petitioner shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Petitioner shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Petitioner shall provide a copy of this decision to his employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, petitioner shall notify the Board in writing within seventy-two (72) hours after he obtains any nursing or other health care related employment. Petitioner shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

- (8) SUPERVISION - Petitioner shall obtain prior approval from the Board regarding petitioner's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Petitioner shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Petitioner's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
 - (b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours petitioner works.
 - (c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with petitioner at least twice during each shift worked.
 - (d) Home Health Care - If petitioner is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with petitioner as required by the Board each work day. Petitioner shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by petitioner with or without petitioner present.
- (9) EMPLOYMENT LIMITATIONS - Petitioner shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Petitioner shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Petitioner shall not work in any other registered nursing occupation where home visits are required.

Petitioner shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict petitioner from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Petitioner shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Petitioner shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If petitioner is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

- (10) COMPLETE A NURSING COURSE(S) - Petitioner, at his own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his probationary term.

Petitioner shall obtain prior approval from the Board before enrolling in the course(s). Petitioner shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to petitioner after photocopying them for its records.

- (11) VIOLATION OF PROBATION - If a petitioner violates the conditions of his probation, the Board after giving petitioner notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of petitioner's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against petitioner's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against petitioner's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

- (12) LICENSE SURRENDER - During petitioner's term of probation, if he ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, petitioner may surrender his license to the Board. The Board reserves the right to evaluate petitioner's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, petitioner will no longer be subject to the conditions of probation.

Surrender of petitioner's license shall be considered a disciplinary action and shall become a part of petitioner's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- 1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- 2) One year for a license surrendered for a mental or physical illness.

- (13) PHYSICAL EXAMINATION - Within 45 days of the effective date of this decision, petitioner, at his expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of petitioner's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by petitioner with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If petitioner is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and petitioner by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Petitioner shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, petitioner shall not engage in any practice for which a license issued by the Board is required until the Board has notified petitioner that a medical determination permits petitioner to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If petitioner fails to have the above assessment submitted to the Board within the 45-day requirement, petitioner shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by petitioner to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

- (14) PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE - Petitioner, at his expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If petitioner has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, petitioner, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program

is not successfully completed within the first nine months of probation, the Board shall consider petitioner in violation of probation.

Based on Board recommendation, each week petitioner shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Petitioner shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Petitioner shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

- (15) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS - Petitioner shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Petitioner shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, petitioner's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Petitioner shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of petitioner's history of substance abuse and will coordinate and monitor any prescriptions for petitioner for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis petitioner's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

- (16) SUBMIT TO TESTS AND SAMPLES - Petitioner, at his expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. Petitioner is responsible for keeping the Board informed of petitioner's current telephone number at all times. Petitioner shall also ensure that messages may be left at the telephone number when he is not available and ensure that reports are submitted directly by the testing agency to

the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and petitioner shall be considered in violation of probation.

In addition, petitioner, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If petitioner has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend petitioner from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If petitioner fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, petitioner shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend petitioner from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

- (17) MENTAL HEALTH EXAMINATION - Petitioner shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine his capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of petitioner. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by petitioner.

If petitioner is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and petitioner by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Petitioner shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, petitioner shall not engage in any practice for which a license issued by the Board is required, until the Board has notified petitioner that a mental health

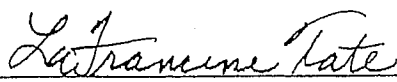
determination permits petitioner to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If petitioner fails to have the above assessment submitted to the Board within the 45-day requirement, petitioner shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by petitioner to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

- (18) THERAPY OR COUNSELING PROGRAM - Petitioner, at his expense, shall participate in an on-going counseling program until such time as the Board releases him from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.
- (19) COST RECOVERY - Petitioner shall pay to the Board costs associated with its investigation and enforcement¹ pursuant to Business and Professions Code section 125.3 in the amount set forth by the Board. Petitioner shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If petitioner has not complied with this condition during the probationary term, and petitioner has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of petitioner's probation period up to one year without further hearing in order to comply with this condition. During the one-year extension, all original conditions of probation will apply.

DATED: July 24, 2008



LaFRANCINE TATE, Public Member
President, California Board of Registered Nursing

¹ No specific amount was stated at the hearing. The board shall determine if cost recovery is owed by petitioner and the actual amount owed.

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement:

Rodney Jaramillo

Registered Nurse License No. 549749

Petitioner.

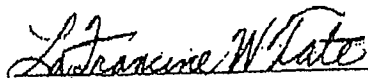
OAH No. L2007010682

DECISION

The attached Decision of the Board of Registered Nursing is hereby adopted by the Board as its Decision in the above-entitled matter.

This Decision shall become effective on April 27, 2007.

IT IS SO ORDERED this 27th day of March 2007.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of Petition for Reinstatement
of:

OAH No. L2007010682

RODNEY JARAMILLO

Petitioner,

DECISION

This matter was heard by a quorum of the Board of Registered Nursing on February 15, 2007, in Los Angeles, California. Administrative Law Judge Humberto Flores from the Office of Administrative Hearings presided.

Joseph N. Zimring, Deputy Attorney General, represented the Department of Justice.

Petitioner, Rodney Jaramillo, appeared personally and represented himself.

Oral and documentary evidence was received and the matter was submitted for decision. The Board of Registered Nursing (Board) finds as follows:

FACTUAL FINDINGS

1. On August 25, 2006, Rodney Jaramillo (Petitioner) submitted a Petition for Reinstatement to the Board
2. On November 13, 1998, the Board issued Registered Nurse License No. 549749 to Petitioner.
3. By a Stipulated Surrender of License and Order in Case No. 2004-165, effective August 13, 2004, Petitioner's surrendered his registered nurse license.

4. In the above Stipulated Surrender, Petitioner admitted that: (1) he failed to disclose criminal convictions in his application for licensure in violation of Business and Professions Code section 492 and California Code of Regulations, title 16, section 1444; (2) he was convicted of battery on a household member, and was convicted of driving while intoxicated on two separate occasions; and (3) he was terminated from employment at Pacific Medical Center for taking the medical records of three patients for the purpose of contacting said patients for social reasons, in violation of Business and Professions Code sections 2761, subdivision (a).

5. Since surrendering his license, Petitioner has worked as an Operating Room Technician for the following health care facilities: (1) Children's Hospital and Research Center in Oakland, California; (2) Marin Specialty Center in Greenbrae, California; and (3) Tancredi F. D'Amore, M.D., in Corte Madera, California. Petitioner has completed four continuing education courses since surrendering his R.N. license.

6. Petitioner has failed to present sufficient evidence of rehabilitation. Petitioner failed to disclose his convictions and license disciplinary history to all of his employers. This is particularly troublesome because of his past failure to disclose his convictions in his application for licensure with the Board.

LEGAL CONCLUSIONS

Cause does not exist pursuant to Business and Professions Code Section 2760.1, subdivision (e), to grant the Petition for Reinstatement of a Revoked License submitted by Petitioner, by reason of Factual Finding 6.

ORDER

The Petition for Reinstatement of a registered nurse license submitted by Rodney Jaramillo is denied.

DATED: March 27, 2007

LaFrancine Tate
LaFrancine Tate, Public Member
President
Board of Registered Nursing

2 - 20070327
11:00

Exhibit B

Decision and Order: Stipulated Surrender of License and Order

Board of Registered Nursing Case No. 2004-165

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

RODNEY R. JARAMILLO
9178 Saddle Ridgeway
Fair Oaks, CA

1050 North Point Street, #607
San Francisco, California 94109

2070 Joan Drive
San Leandro, CA 94578

Registered Nurse License No. 549749

Respondent.

Case No. 2004-165

OAH No.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 13, 2004.

It is so ORDERED July 13, 2004.

Sandra L. Erickson

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

RECORDED
FILED

JUL 13 2004

DEPT. OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General
of the State of California
2 REBECCA M. HEINSTEIN, State Bar No. 173202
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-5604
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2004-165

11 RODNEY R. JARAMILLO
9178 Saddle Ridgeway
12 Fair Oaks, CA

OAH No. N2004020162

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

13 1050 North Point Street, #607
San Francisco, California 94109

14 2070 Joan Drive
15 San Leandro, CA 94578

16 Registered Nurse License No. 549749

17 Respondent.
18

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
20 proceeding that the following matters are true:

21 PARTIES

22 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") is the Executive Officer of
23 the Board of Registered Nursing. She brought this action solely in her official capacity and is
24 represented in this matter by Bill Lockyer, Attorney General of the State of California, by
25 Rebecca M. Heinstein, Deputy Attorney General.

26 2. Rodney R. Jaramillo ("Respondent") is representing himself in this
27 proceeding and has chosen not to exercise his right to be represented by counsel.

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3. On or about November 13, 1998, the Board of Registered Nursing issued Registered Nurse License No. 549749 to Rodney R. Jaramillo. The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2004-165 and will expire on July 31, 2004, unless renewed.

JURISDICTION

4. Accusation No. 2004-165 was filed before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 9, 2004. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2004-165 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2004-165. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2004-165, agrees that cause exists for discipline and hereby surrenders his Registered Nurse License No. 549749 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue its order accepting the surrender of his Registered Nurse License without further process.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Registered Nursing or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender of License and Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile or other copies of this Stipulated Surrender of License and Order, including the signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 549749, issued to Respondent Rodney R. Jaramillo is surrendered and accepted by the Board of Registered

1 Nursing.

2 14. The surrender of Respondent's Registered Nurse License and the
3 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
4 against Respondent. This stipulation constitutes a record of the discipline and shall become a
5 part of Respondent's license history with the Board.

6 15. Respondent shall lose all rights and privileges as a registered nurse in
7 California as of the effective date of the Board's Decision and Order.

8 16. Respondent shall cause to be delivered to the Board both his License and
9 wallet certificate on or before the effective date of the Decision and Order.

10 17. Respondent fully understands and agrees that if he ever files an application
11 for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
12 petition for reinstatement. Respondent must comply with all the laws, regulations and
13 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all
14 of the charges and allegations contained in Accusation No. 2004-165 shall be deemed to be true,
15 correct, and admitted by Respondent when the licensing agency determines whether to grant or
16 deny the petition.

17 18. Respondent shall not apply for licensure or petition for reinstatement for
18 two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

19 19. If and when Respondent's license is reinstated, he shall pay to the Board
20 costs associated with its investigation and enforcement pursuant to Business and Professions
21 Code section 125.3 in the amount of \$6,000.00. Respondent shall be permitted to pay these
22 costs in a payment plan approved by the Board. Nothing in this provision shall be construed to
23 prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

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DATED: 3/26/04

RODNEY R. JARAMILLO
Respondent

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DATED: 4/5/04

Rebecca M. Heinster
REBECCA M. HEINSTEIN
Deputy Attorney General

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Exhibit A

Accusation

Board of Registered Nursing Case No. 2004-165

1 BILL LOCKYER, Attorney General
of the State of California
2 REBECCA M. HEINSTEIN, State Bar No. 173202
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-5604
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2004-165

11 RODNEY R. JARAMILLO
12 9178 Saddle Ridgeway
Fair Oaks, CA

OAH No.

A C C U S A T I O N

13 1050 North Point Street, #607
14 San Francisco, California 94109

15 2070 Joan Drive
San Leandro, CA 94578

16 Registered Nurse License No. 549749

17 Respondent.

18
19 Complainant alleges:

20 PARTIES

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
23 ("Board").

24 2. On or about November 13, 1998, the Board issued Registered Nurse
25 License No. 549749 to Rodney R. Jaramillo (Respondent). The Registered Nurse License was in
26 full force and effect at all times relevant to the charges brought herein and will expire on July 31,
27 2004, unless renewed.

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1 guilty or a conviction following a plea of nolo contendere. Any action which a Board is
2 permitted to take following the establishment of a conviction may be taken when the time for
3 appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order
4 granting probation is made suspending the imposition of sentence, irrespective of a subsequent
5 order under the provisions of Section 1203.4 of the Penal Code.

6 7. Section 492 of the Code provides in relevant part that notwithstanding any
7 other provision of law, successful completion of any diversion program under the Penal Code, or
8 successful completion of an alcohol and drug problem assessment, shall not prohibit any agency
9 established under Division 2 of this Code, or any initiative act referred to in that division, from
10 taking disciplinary action against a licensee.

11 8. California Code of Regulations, title 16, section 1444, states in relevant
12 part that a conviction or act shall be considered to be substantially related to the qualifications,
13 functions or duties of a registered nurse if to a substantial degree it evidences the present or
14 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
15 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

16 (a) Assaultive or abusive conduct including, but not limited to, those violations
17 listed in subdivision (d) of Penal Code Section 11160.

18 ...
19 (c) Theft, dishonesty, fraud, or deceit.

20 9. Section 125.3 of the Code provides, in pertinent part, that the Board may
21 request the administrative law judge to direct a licensee found to have committed a violation or
22 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
23 and enforcement of the case.

24 10. Section 118 of the Code states:

25 (a) The withdrawal of an application for a license after it has been filed with a
26 board in the department shall not, unless the board has consented in writing to such withdrawal,
27 deprive the board of its authority to institute or continue a proceeding against the applicant for
28 the denial of the license upon any ground provided by law or to enter an order denying the license

1 upon any such ground.

2 FIRST CAUSE FOR DISCIPLINE

3 (Falsification of Application Records)

4 11. Respondent is subject to disciplinary action under section 2761(b) of the
5 Code, pursuant to Code section 492, and California Code of Regulations, title 16, section
6 1444(c) and (e), in that on or about February 7, 1998, respondent falsely represented in Item No.
7 13.h. of his license application that he had not been convicted of any offense other than a minor
8 traffic violation. The circumstances are as follows:

9 a. On or about February 7, 1998, respondent certified under penalty of
10 perjury that all information, including Item No. 13.h. regarding convictions, provided on his
11 application for a Registered Nurse's license in California was true, correct and complete.

12 b. On or about December 4, 1997, in the matter known was *State of New*
13 *Mexico vs. Rodney Jaramillo*, Metropolitan Court, County of Bernalillo, State of New Mexico,
14 Court Case No. V 1565-97, respondent was convicted by his plea of guilty to the charge that he
15 committed battery against a household member, a violation of section 30-3-12 of the New
16 Mexico Statutes. Respondent was granted a deferred sentence conditioned on no further
17 incidents or arrests and counseling.

18 c. On or about March 9, 1987, respondent pled guilty to the charge of
19 Driving While Intoxicated in Citation Case No. 883157, in the New Mexico Court system.
20 Respondent was ordered by the Court to enroll in DWI School and to participate the First
21 Offender Program.

22 d. On or about January 19, 1995, respondent pled guilty to the charge of
23 Aggravated Driving While Intoxicated in Citation Case No. 6631816, in the New Mexico Court
24 system. The Court sentenced respondent to 90 days in jail, sentence suspended, granted
25 probation by the Court and ordered to pay fines and costs.

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1 section 273.5(a), for the willful infliction of corporal injury on a cohabitant, to wit: V.B.¹. The
2 Court ordered respondent to serve 36 month's probation, sentenced him to serve 2 days in
3 County jail, ordered him to participate in 52 weeks of a diversion and substance abuse program
4 as deemed appropriate by the assigned probation officer, possess no weapons, submit to drug
5 testing, submit to counseling, stay away from V.B., and ordered him to pay court related fines
6 and costs.

7 THIRD CAUSE FOR DISCIPLINE

8 (Conviction - New Mexico)

9 13. Respondent is subject to disciplinary action under sections 490 and
10 2761(f) of the Code and under California Code of Regulations, title 16, section 1444(a), in that
11 on or about December 4, 1997, in the matter known was *State of New Mexico vs. Rodney*
12 *Jaramillo*, Metropolitan Court, County of Bernalillo, State of New Mexico, Court Case No. V
13 1565-97, respondent was convicted of a violation of section 30-3-12 of the New Mexico Statutes,
14 a misdemeanor. The circumstances are as follows:

15 a. On or about April 25, 1997, respondent committed a battery and displayed
16 threatening and/or menacing conduct against his wife, T.J.

17 FOURTH CAUSE FOR DISCIPLINE

18 (Unprofessional Conduct - Theft of Records)

19 14. Respondent is subject to disciplinary action under 2761(a) of the Code in
20 that on or between April 4, 2002, and May 16, 2002, respondent wilfully, and unlawfully stole,
21 took and carried away patient medical records belonging to California Pacific Medical Center.
22 These records concerning three female patients who had surgery performed at California Pacific
23 Medical Center during the time period when respondent worked in the Pacific Medical Center's
24 Surgery Department as a Registered Nurse.

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28 1. Initials are used in order to preserve confidentiality. Full names will be disclosed pursuant to a request for discovery.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct - Contacting Patients)

3 15. Respondent is subject to disciplinary action under section 2761(a) in that
4 on or after respondent was terminated from his employment as a Registered Nurse at Pacific
5 Medical Center, he contacted at least one of the three former Pacific Medical Center patients
6 whose medical records he had taken, as set forth in paragraph 14, for personal social reasons.

7 OTHER MATTERS

8 16. On or about June 28, 2002, in the matter entitled *People of California vs.*
9 *Rodney Jaramillo*, San Francisco Superior Court Case No. 2041406, the Adult Probation
10 Department moved the Court to revoke respondent's probation and to issue a protective order
11 restraining respondent from contact with the court ordered Domestic Violence program known
12 as Manalive and the individuals employed to provide services in that program. The protective
13 order was based upon respondent's poor performance in the court ordered program and
14 conflicting statements he made at Manalive regarding his possession of a firearm. The Court
15 ruled that respondent was not to come within 150 yards of Manalive and persons who worked
16 there and that respondent possess no weapons. On or about July 25, 2002, the Court made a
17 formal recommendation that respondent's probation be modified to include six months in the
18 County Jail to be served through the Resolve to Stop the Violence Program through the San
19 Francisco Sheriff's Department.

20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein
22 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License No. 549749, issued to
24 Rodney R. Jaramillo.

25 2. Ordering respondent to reimburse the Board its reasonable costs of the
26 investigation and enforcement of this case, pursuant to Business and Professions Code section
27 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 1/6/04

Ruth Ann Terry
RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
State of California
Complainant

SF2003400683

LLZ 12/11/03

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